

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

November 19, 2009

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, November 19, 2009, at 1:33 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: G. Nelson Van Fleet, Chair; Debra Miller Stevens, Vice Chair; David Dennis; Darrell Downing; Shawn Farney; David Foster; Hoyt Hillman; Joe Johnson; M.S. Mitchell and Don Sherman. Bud Hentzen; Bill Johnson; Ronald Marnell and John W. McKay Jr., were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Neil Strahl, Senior Planner; Derrick Slocum, Associate Planner; Joe Lang, Chief Deputy City Attorney; Bob Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

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1. Approval of the prior MAPC meeting minutes:

Meeting Date: No Minutes

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB 2009-63: Final Plat -- STEVE KELLEY 6TH ADDITION**, located west of Maize and south of Kellogg.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department requests a petition for water (transmission and distribution mains) and sewer (mains and laterals) to serve all lots being platted.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has approved the applicant's drainage plan.
- D. The Applicant shall guarantee the paving of the proposed street.
- E. Since this plat proposes the platting of narrow street right-of-way with adjacent 15-foot street drainage and utility easements, a restrictive covenant shall be submitted which calls out restrictions for lot-owner use of these easements. Retaining walls and change of grade shall be prohibited within these easements as well as fences, earth berms and mass plantings.
- F. The applicant shall submit a covenant that provides four (4) off-street parking spaces per lot that abuts a 32-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- G. GIS has approved the plat's street name.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified

with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

J. JOHNSON moved, **DENNIS** seconded the motion, and it carried (10-0).

2-2. SUB 2009-72: One-Step Final Plat -- DODGE ELEMENTARY ADDITION, located east of Hoover, north of Maple.

NOTE: This is a replat of the Patry's Addition in addition to unplatted property.

STAFF COMMENTS:

- A. City of Wichita Water Utilities Department advises that municipal services are available to serve the site.

- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Engineering has approved the drainage plan subject to the platting of drainage easements.
- D. Since no access controls are needed, the final plat tracing may delete reference to the dedication of access controls in the plat's text.
- E. Ridge Road needs to be replaced with Hoover on the vicinity map.
- F. The Applicant has platted a 5-foot building setback along Anna, Second and First Street which represents an adjustment of the Zoning Code standards requiring a 20-foot front yard setback for the B district (north portion of the property) and 25-foot front yard setback for the SF-5 district (south portion of the property). The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission. The Subdivision Committee has approved the setback modification.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. A compact disc (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please

send the information via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

J. JOHNSON moved, **DENNIS** seconded the motion, and it carried (10-0).

3. PUBLIC HEARING – VACATION ITEMS

3-1. VAC2009-37: City request to vacate the plattor's text of platted reserve to amend the uses allowed and vacate a portion of the platted alley

OWNERS/AGENT: Quick Trip Corp., c/o Pam Friggel /Baughman Co. PA., c/o Phil Meyer

LEGAL DESCRIPTION: Reserve A and the platted 20-foot wide, east-west alley, all in the Quick Trip 5th Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located west of Hydraulic Avenue, on the north side of Lincoln Street. (WCC #I)

REASON FOR REQUEST: Expansion of existing convenience store

CURRENT ZONING: Subject property and abutting and adjacent southern properties are zoned LC Limited Commercial ("LC"). Properties abutting and adjacent to the north, east and west of the site are zoned B Multifamily ("B").

The applicant is requesting the vacation of the plattors' text to amend the uses allowed in the platted Reserve A, Quick Trip 5th Addition. Currently the plattors' text states that Reserve A, is to be used for landscaping. The applicant requests the vacation to allow utilities, screening, parking, drives and retaining landscaping. There are no manholes, sewer or water lines in the platted reserve. The applicant is also requesting that the platted 20-foot wide east-west alley be vacated. There is a sewer line and manhole located in the east portion of the alley; a portion of the alley will be retained as an easement. There are no water lines located in the platted alley. The platted alley intersects Greenwood Street on its west side and a platted 10-foot wide, north-south alley on its east side; the Amidon's Addition, recorded 1887. Vacating the alley would create a north-south dead end alley; an access easement or right-of-way (ROW) will have to be dedicated to provide access to public ROW. Westar has equipment within the described areas. The Quick Trip 5th Addition was recorded with the Register of Deeds September 2, 1993.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works, Water & Sewer, Storm Water, franchised utility representatives and other interested parties, Planning Staff has listed the following considerations and conditions (but not limited to) associated with the request to vacate the plattors' text to amend the uses allowed in the described platted reserve and to vacate the described platted alley:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 29, 2009, which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the plattors' text to amend the uses allowed in the described platted reserve and to vacate the described platted alley and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Vacate the plattor's text, amending it to allow utilities, screening, parking, drives and retaining landscaping, in the platted Reserve A, Quick Trip 5th Addition. Provide all needed plans and subsequent approval of plans, including drainage and grading, prior to the case going WCC for final action.
- (2) As approved by the Traffic Engineer, dedicate a public access easement or public right-of-way going to public right-of-way (located to the east or west) and to the platted north south alley, prior to the case going to the WCC for final action. This dedication must be on the applicant's property.
- (3) Dedicate additional right-of-way along Hydraulic Avenue, as approved by the Traffic Engineer.
- (4) Dedicate access control along Lincoln and Hydraulic Avenues, as approved by the Traffic Engineer.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed provide the necessary guarantees for relocation or reconstruction of utilities, prior to the case going WCC for final action.
- (6) Provide staff with any needed easements for relocated utilities or utilities located outside of easements, prior to the case going to the WCC for final action.
- (7) All improvements shall be according to City Standards and at the applicants' expense. If needed provide the necessary guarantees for improvements including, but not limited to, continuation of curb, reconstruction of sidewalk(s), curb cuts and drives. Provide to Staff prior to the case going to WCC for final action.
- (8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate the plattor's text, amending it to allow utilities, screening, parking, drives and retaining landscaping, in the platted Reserve A, Quick Trip 5th Addition. Provide all needed plans and subsequent approval of plans, including drainage and grading, prior to the case going WCC for final action.

- (2) As approved by the Traffic Engineer, dedicate a public access easement or public right-of-way going to public right-of-way (located to the east or west) and to the platted north south alley, prior to the case going to the WCC for final action. This dedication must be on the applicant's property.
- (3) Dedicate additional right-of-way along Hydraulic Avenue, as approved by the Traffic Engineer.
- (4) Dedicate access control along Lincoln and Hydraulic Avenues, as approved by the Traffic Engineer.
- (5) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed provide the necessary guarantees for relocation or reconstruction of utilities, prior to the case going WCC for final action.
- (6) Provide staff with any needed easements for relocated utilities or utilities located outside of easements, prior to the case going to the WCC for final action.
- (7) All improvements shall be according to City Standards and at the applicants' expense. If needed provide the necessary guarantees for improvements including, but not limited to, continuation of curb, reconstruction of sidewalk(s), curb cuts and drives. Provide to Staff prior to the case going to WCC for final action.
- (8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **MITCHELL** seconded the motion, and it carried (10-0).

3-2. VAC2009-38: City request to vacate a utility easement

OWNERS/AGENT: Quick Trip Corp., c/o Pam Friggel/Baughman Co. PA, c/o Phil Meyer

LEGAL DESCRIPTION: Vacate the east-west utility easement created by the vacation of a platted alley, which was retained as utility easement via the Vacation Order, Film 733, Page 1275, Wichita, Sedgwick County, Kansas.

LOCATION: Generally located on the northeast corner of Douglas and Washington Avenues. (WCC #I)

REASON FOR REQUEST: Expansion of existing convenience store

CURRENT ZONING: Subject property and abutting and adjacent northern, eastern and southern properties are zoned CBD Central Business District ("CBD"). The site is located within a Historical Environs. Properties adjacent to the east of the site are zoned LI Limited Industrial ("LI") and are in the Old Town Overlay District.

The applicant is requesting the vacation of the described utility easement. There are utilities, manholes and sewer line in the easement. There are no water lines located in the easement.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works, Water & Sewer, Storm Water, franchised utility representatives and other interested parties, Planning staff has listed the following considerations and conditions (but not limited to) associated with the request to vacate the described easement with conditions:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 - 1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time October 29, 2009, which was at least 20 days prior to this public hearing.
 - 2. That no private rights will be injured or endangered by the vacation of the described easement and the public will suffer no loss or inconvenience thereby.
 - 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Dedicate a temporary easement, to be retained until the sewer line, manhole and other utilities can be relocated and/or abandoned. Provide prior to the case going WCC for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed provide the necessary guarantees for relocation or reconstruction of utilities, prior to the case going to WCC for final action.
- (3) Provide staff with any needed easements for relocated utilities or utilities located outside of easements, prior to the case going to the WCC for final action.
- (4) Provide Storm Water with drainage plans, to review for impact of the vacation of the easement on abutting properties and street right-of-way.
- (5) Contact the Historical Preservation Planner in regards to the impact of the Historical Environs on the site.
- (6) All improvements shall be according to City Standards and at the applicants' expense. If needed provide the necessary guarantees for improvements including, but not limited to, continuation of curb, reconstruction of sidewalk(s), curb cuts and drives. Provide to Staff prior to the case going to WCC for final action.
- (7) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Dedicate a temporary easement, to be retained until the sewer line, manhole and other utilities can be relocated and/or abandoned. Provide prior to the case going WCC for final action.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicants' expense. As needed provide the necessary guarantees for relocation or reconstruction of utilities, prior to the case going WCC for final action.
- (3) Provide staff with any needed easements for relocated utilities or utilities located outside of easements, prior to the case going to the WCC for final action.
- (4) Provide Storm Water with drainage plans, to review for impact of the vacation of the easement on abutting properties and street right-of-way
- (5) Contact the Historical Preservation Planner in regards to the impact of the Historical Environs on the site.
- (6) All improvements shall be according to City Standards and at the applicants' expense. If needed provide the necessary guarantees for improvements including, but not limited to, continuation of curb, reconstruction of sidewalk(s), curb cuts and drives. Provide to Staff prior to the case going to WCC for final action.
- (7) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

HILLMAN moved, **MITCHELL** seconded the motion, and it carried (10-0).

PUBLIC HEARINGS

4. **Case No.: ZON2009-33** - Ben Castleberry (owner); Triple T Pallets Inc. c/o Jeff Thompson (applicant) Request County Amendment to Protective Overlay PO-18 to permit outdoor storage and display in LI Limited Industrial zoning on property described as:

Lot 1, Block 1, Castleberry Addition, to Sedgwick County, Kansas, generally located east of Broadway Street and south of 117th Street North.

BACKGROUND: The applicant requests an amendment to Protective Overlay 18 (PO-18), to eliminate the prohibition on outdoor storage and display for an existing pallet recycling business. This site was rezoned in 1999 from RR Rural Residential ("RR") to LI Limited Industrial ("LI") subject to the provisions of PO-18. PO-18 currently exists as written below:

- (1) The uses allowed on the property shall be limited to the following: manufacturing (limited and general), research services, warehousing, welding or machine shop, wholesale or business services agriculture, agricultural processing, agricultural research, agricultural sales and services, grain storage, recycling collection station (public and private), recycling processing center,

animal care (limited and general), construction sales and service, office (general), secondhand store, vehicle and equipment sales (indoor only), vehicle repair (general), and warehouse (self-storage). There shall be no outside storage or display permitted on this site.

- (2) The gross floor area shall be limited to the existing square footage, plus a 30% expansion of that square footage.
- (3) The applicant shall meet all applicable building and fire codes prior to using this site for any of the above-referenced uses.

This site had industrial uses and buildings, to include outdoor storage, prior to the 1999 rezoning and establishment of PO-18. The applicant's business requires outdoor storage and work areas; the applicant is working with County Code Enforcement to bring the entire site up to code standards. This site is located ¼ mile south of 117th Street North on the east side of Broadway, it is ¼ mile west of I-135. All surrounding properties are zoned RR. North of the site are single-family and manufactured home residential uses. South of the site are warehousing and agricultural uses. East of the site, and west across Broadway, are agricultural uses.

CASE HISTORY: Buildings on the site were developed for a swine testing facility prior to countywide zoning in 1985. The site was rezoned from RR to LI subject to PO-18 in 1999. The site was platted as the Castleberry Addition in 1999.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Single-family residence, manufactured home
SOUTH:	RR	Warehousing, agriculture
EAST:	RR	Agriculture
WEST:	RR	Agriculture

PUBLIC SERVICES: The site has frontage along Broadway, a paved four-lane arterial street at this location with a 120-foot right-of-way. No public water or sewer are available.

CONFORMANCE TO PLANS/POLICIES: The County's 2030 functional land use guide designates this site as "Rural" and not within any small city's 2030 Urban Growth Area. The Rural category encompasses land outside the 2030 urban growth areas for Wichita and small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in the County, and predominantly larger lot residential uses.

RECOMMENDATION: Outdoor storage and work areas have existed on this site for over 20 years with no apparent effect on surrounding properties; the proposed PO amendment will not create any visible changes on the site. Other properties in the immediate area also have industrial uses with some outdoor storage. Screening of outdoor storage areas from Broadway could mitigate potential negative effects on the surrounding area in the future. The applicant is working with County Code Enforcement to otherwise bring the property into code conformance. Likewise, County Code Enforcement concurs with planning staff's recommendation. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to an amended PO-18 as follows:

Item (1) shall be amended to eliminate the prohibition on outdoor storage and display, and shall add: "Outdoor storage, display, and work areas shall be screened from Broadway Avenue, and from residential land uses."

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding properties are zoned RR.

North of the site are single-family and manufactured home residential uses. South of the site are warehousing and agricultural uses. East of the site, and west across Broadway, are agricultural uses.

2. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned LI subject to PO-18. PO-18 as it exists without this amendment prohibits outdoor storage and display. Outdoor storage and work areas have existed on the site for over 20 years. The site cannot be used for the current business without outdoor storage and work areas.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed amendment to PO-18 will allow outdoor storage and work areas, but would require screening from Broadway and residential uses. Outdoor storage and work areas have existed on the site for years; the PO amendment will make this use more compatible with surrounding properties by requiring screening.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The County's 2030 functional land use guide designates this site as "Rural" and not within any small city's 2030 Urban Growth Area. The Rural category encompasses land outside the 2030 urban growth areas for Wichita and small cities. This category is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in the County, and predominantly larger lot residential uses.
5. Impact of the proposed development on community facilities: The proposed PO amendment should have no impact on community facilities, as land uses on the site will not change

JESS MCNEELY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **SHERMAN** seconded the motion, and it carried (10-0).

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5. **Case No.: ZON2009-34** - City of Wichita (owner); Center for Health and Wellness (contract purchaser) Request City zone change from NO Neighborhood Office and MF-29 Multi-Family Residential to GO General Office on property described as:

Parcel 1: Lot 1, Block 1, Center for Health and Wellness Addition to Wichita, Sedgwick County, Kansas.

Parcel 2: Lots 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, Except the North 18 feet thereof, Block 4, Shadybrook Addition to Wichita, Sedgwick County, Kansas, generally located south of 21st Street North and west of Erie Street.

BACKGROUND: This is a request for a City zone change from NO Neighborhood Office ("NO"), MF-29 Multi-Family Residential ("MF-29") and LC Limited Commercial ("LC") to GO General Office ("GO"), generally located south of 21st Street North and west of Erie Street. The contract purchaser has an existing medical office and counseling service on the property zoned NO at the southwest corner of 21st Street North and Erie Street. The contract purchaser would like to expand its office facility and parking lot areas to the west on property zoned MF-29 and LC. The area to be rezoned would be Lots 3-13, Block 4 of Shadybrook Addition except the north 18 feet of these lots. The contract purchaser also has requested to rezone the NO tract to GO since the expanded office building would exceed the maximum size allowable for an office building in the NO zoning district. GO zoning will accommodate the expansion plans.

The site is extremely long and narrow. The applicant is requesting a Zoning Adjustment to the parking requirement and a compatibility setback reduction (BZA2009-00050).

The site is located along the south side of 21st Street North, in the redevelopment corridor. It occupies all of the block between Erie Street and Grove Street except the speedy cash operation, zoned LC, on the southeast corner. About two-thirds of the property north of 21st is zoned LC and is the location of a car wash and a small-scale commercial retail and office center, a vacant LC tract, medical offices on GO zoning and NR Neighborhood Retail (“NR”), and a house on SF-5 Single-Family Residential (“SF-5”). The property on the northeast corner of 21st and Grove is a vacant building most recently used as the Boys and Girls Club prior to the relocation of the Boys and Girls Club two blocks west to the Opportunity Place Planned Unit Development. The northwest corner is the location of a liquor store and the southwest corner is the location of a bank. The property to the east of the site is a police station on property zoned TF-3 Two-Family Residential (“TF-3”). The property to the south is zoned TF-3 and developed with single-family residences and duplexes, several vacant properties and several properties in poor repair.

CASE HISTORY: The property is platted as Shadybrook Addition, recorded November 19, 1941, on the portion zoned MF-29 and Center for Health and Wellness Addition, recorded April 10, 1998, for the portion zoned NO.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, GO, NR, SF-5	Car wash, commercial retail/ office center, medical offices, vacant
SOUTH:	TF-3-	Single-family residences, duplexes and vacant
EAST:	TF-3	Police station
WEST:	LC, NR	Applicant’s vacant property zoned LC, speedy cash, bank, liquor store

PUBLIC SERVICES: The subject property has direct access onto 21st Street North, a five-lane urban arterial street. In 2006, the traffic volume (Annual Average Daily Traffic “AADT”) was approximately 22,000 on 21st Street North on each leg at Grove Street. The City is retaining 18 feet of property to use as right-of-way for 21st Street North. Normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The requested zone change is in conformance with this recommendation. The 21st Street North Corridor Revitalization Plan identifies this area as “Neighborhood Retail.” This is a new land use category that envisions smaller, niche shops that serve the adjacent communities. Neighborhood Retail varies from the Neighborhood Centers category (within the “Commercial Retail” classification) in the existing Wichita-Sedgwick County Comprehensive Plan. Neighborhood centers are “typically anchored by a supermarket” as opposed to the local, specialty shops envisioned for the Neighborhood Retail land use. The proposed office use does not strictly fit this category and more nearly falls in the category of “Commercial-Mixed.” The 21st Street Plan also recommends an implementation priority for the abutting residential property to the south of the zone change request in “Implementation Action #11: Acquire underutilized residential parcels east of Grove and 21st Street to consolidate parcels and create a viable development site.”

RECOMMENDATION: Based upon this information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is located along the south side of 21st Street North, in the redevelopment corridor. It occupies all of the block between Erie Street

and Grove Street except the speedy cash operation, zoned LC, on the southeast corner. About two-thirds of the property north of 21st is zoned LC and is the location of a car wash and a small-scale commercial retail and office center, a vacant LC tract, medical offices on GO zoning and NR Neighborhood Retail (“NR”), and a house on SF-5 Single-Family Residential (“SF-5”). The property on the northeast corner of 21st and Grove is a vacant building most recently used as the Boys and Girls Club prior to the relocation of the Boys and Girls Club two blocks west to the Opportunity Place Planned Unit Development. The property to the east of the site is a police station on property zoned TF-3 Two-Family Residential (“TF-3”). The property to the south is zoned TF-3 and developed with single-family residences and duplexes, several vacant properties and several properties in poor repair.

2. The suitability of the subject property for the uses to which it has been restricted: The property could be used as currently zoned by keeping the smaller office on the NO zoned lot and redeveloping the MF-29 lots with multi-family uses, plus using the existing LC for more intensive uses. However, it is shown on the Comprehensive Plan and the 21st Street North Corridor Revitalization plan as being more suited to an intensity of uses comparable to the neighborhood retail designation. The property to the west and across 21st Street North is zoned more intensively as LC. Both factors indicate it is more suited to the requested rezoning than to current zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The most affected properties are the TF-3 lots to the south and the narrowness of the site complicates compliance with compatibility setbacks. While the office use has more potential impact on its southern boundary, other screening and buffering and landscaping site requirements can be used to reduce the impact. The limiting of the zone change to GO rather than LC eliminates those more intensive commercial uses such as convenience stores, retail, car washes, etc. that have greater impacts on nearby residential use.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide, as amended May 2005” of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” The requested zone change is in conformance with this recommendation. The 21st Street North Corridor Revitalization Plan identifies this area as “Neighborhood Retail.” This is a new land use category that envisions smaller, niche shops that serve the adjacent communities. Neighborhood Retail varies from the Neighborhood Centers category (within the “Commercial Retail” classification) in the existing Wichita-Sedgwick County Comprehensive Plan. Neighborhood centers are “typically anchored by a supermarket” as opposed to the local, specialty shops envisioned for the Neighborhood Retail land use. The proposed office use does not strictly fit this category and more nearly falls in the category of “Commercial-Mixed.” The 21st Street Plan also recommends an implementation priority for the abutting residential property to the south of the zone change request in “Implementation Action #11: Acquire underutilized residential parcels east of Grove and 21st Street to consolidate parcels and create a viable development site.”
5. Impact of the proposed development on community facilities: The impact on public services will be an increase over its vacant status but within the range of expected traffic and the use of community facilities for the recommended neighborhood retail types of uses.

DONNA GOLTRY, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **SHERMAN** seconded the motion, and it carried (10-0).

6. **Case No.: CON2009-33** - Pasan Trust (owner), Associated Wholesale Grocers (long-term lessee, co-applicant) / Locke Supply (Chad Rogers, agent, co-applicant) Request City Conditional Use to increase the amount of outdoor storage to 20 % of floor area on property zoned LC Limited Commercial on property described as:

That part of Lot 2, Morley Second Addition to Wichita, Sedgwick County, Kansas described as beginning at the Northeast corner thereof, thence South 00 degrees, 00 minutes East, along the East line of said Lot 2, 228.35 feet; thence South 89 degrees, 57 minutes, 23 seconds West, 46 feet; thence North 00 degrees, 00 minutes East, 10 feet; thence South 89 degrees, 57 minutes, 23 seconds, West, 390.24 feet to the West line of said Lot 2; thence North 00 degrees, 00 minutes East along the West line of said Lot 2, 56 feet; thence South 89 degrees, 48 minutes, 40 seconds West, 25 feet; thence North 00 degrees, 00 minutes East, 161.24 feet to the Northwest corner of said Lot 2; thence North 89 degrees, 48 minutes, 40 seconds East, 461.24 feet to the point of beginning, generally located on the northeast corner of Harry Street and Woodlawn Boulevard.

BACKGROUND: Locke Supply, a co-applicant, operates 180 stores in five states, and is seeking Conditional Use approval to permit an increase from 10 to 20 percent for the area allowed for “outdoor storage” in the LC Limited Commercial (“LC”) district, per SEC III-B.14.e.(3) of the *Wichita-Sedgwick County Unified Zoning Code*. The application area is zoned LC and the Airport Overlay III-North (“A-O III-N”) district.

Locke Supply has leased the northern end, approximately 24,879 square feet, of a vacant building located northeast of the intersection of South Woodlawn and East Harry Street (1212 South Woodlawn). The lot on which the building is located and the building’s ownership have been split into two ownerships. (The approximate southern half of the building, 1230 South Woodlawn, is not part of this application.) The building is located approximately 291 feet back from Woodlawn and approximately 46 feet south of Boston Street. Being unfamiliar with the community’s outdoor storage regulations, Locke Supply installed an outdoor storage area that is not compliant with the outdoor storage standards for the LC district. The original outdoor storage area is too big and is to be located up next to the building, not as an island on the lot.

While not a lumber yard, Locke Supply sells building materials, including heating and air conditioning, electrical and plumbing supplies. Part of their inventory includes long lengths of PVC pipe. It is the practice of their company to store these longer lengths of PVC pipe outside their building. They also park their delivery vans inside the outdoor storage area. The applicant proposes to install an outdoor storage area in the area immediately west of the northwest corner of their building, which is located approximately 46 feet south of Boston Street and 191 feet east of Woodlawn. Twenty percent of Locke Supply’s leased floor area is approximately 4,975.8 square feet. Staff and the applicant evaluated placing the storage area on the northern side of the building; however, that is a fire lane that cannot be blocked, the surface slopes off at such an angle that it would be unsafe during icy or snowy conditions and there is a 20-foot building setback along Boston. To the east there is only 20 feet between the building and the property line, and that is also a fire lane. So, the applicant is pretty much left with placing any outside storage in front (west) of the existing building in the building’s parking field.

The site has in excess of 140 parking spaces not including the spaces that will be lost due to the outdoor storage. At four parking spaces per 1,000 square feet required, the site needs 100 spaces to meet minimum parking standards for a retail use.

The LC district permits outdoor storage of merchandise available for sale inside the building provided: the outdoor storage area is enclosed by a fence or screening wall not less than six feet in height nor less

than the height of materials being screened. The screening wall or fence must be of material capable of screening the merchandise from view, and is compliant with Sec. IV-B.3 that, in part, requires the installation of a “screening fence,” “screening wall,” vegetation, landscaped earth berms or, in certain instances, plantings meeting the screening requirements of the Landscape Ordinance. The outdoor storage area may have one opening no larger than 10 feet that must be closed when the business is not open. The outdoor storage area is to be attached to the “main building” and is limited to 10 percent of the floor area occupied by the “principal use” unless Conditional Use approval for an area in size between 10 and 20 percent has been approved.

The A-O III-N district prohibits specific uses that attract large concentrations of people. The proposed outdoor storage area does not violate that prohibition.

Surrounding property is zoned a mix of districts: north across Boston Street is Boston Park, a public park, zoned SF-5 Single-family Residential (“SF-5”); east is an apartment complex zoned B Multi-family (“B”); south is a retail commercial building and a bank zoned LC and west are properties zoned LC and MF 29 Multi-family Residential, developed as retail and duplex uses.

CASE HISTORY: The property was platted as Morley’s Second Addition in 1969.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family Residential; City Park
SOUTH:	LC	Limited Commercial; vacant commercial building, bank
EAST:	B	Multi-family Residential; apartments
WEST:	LC	Limited Commercial and MF-29 Multi-family Residential; duplex, retail

PUBLIC SERVICES: The site is located in a fully served portion of town; all public services exist. The outdoors storage facility will not place any additional demand on public services other than potentially code enforcement.

CONFORMANCE TO PLANS/POLICIES: Commercial Locational Guideline No. 3 of *The Wichita-Sedgwick County Comprehensive Plan* states that commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

- A. The Conditional Use permits outdoor storage up to 20 percent of the floor area of the applicant’s principal structure.
- B. The outdoor storage shall be maintained and operated in a manner that is consistent with the outdoor storage development standards contained in the *Wichita-Sedgwick County Unified Zoning Code* Sec. III-B.14.e.(3), including the requirement for screening of the outdoor storage area and all other applicable codes. The outdoor storage area may be used to store materials customarily sold inside the principal business and the parking of delivery vans. The parking, storing of semi-tractor trailers within the outdoor storage area or use of semi-tractor trailers for storage is prohibited.
- C. The site shall be developed in substantial compliance with the approved site plan.
- D. If the zoning administrator finds that there is a violation of any the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is located on a lot that has frontage near the intersection of two arterial streets. All properties located at the corners of the arterial street intersection are zoned LC. Further away from the intersection are properties that are zoned SF-5 (public park), MF-29 (duplexes) and B (multi-family residential).
2. The suitability of the subject property for the uses to which it has been restricted: The property is currently restricted to a maximum area of 10 percent outdoor storage. The site could be used as restricted; however, the co-applicant operates with a business model that involves the storage of materials and delivery vehicles outdoors, and the amount of outdoor storage they customarily use is larger than the maximum allowed by right.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will allow for a doubling of the area permitted for outdoor storage; however the site is over two acres in size and the storage area will be located approximately 187 feet from Woodlawn and 46 feet from Boston Street. The code required nearly solid screening and screening must be high enough to screen whatever material is stored should minimize foreseen impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Presumably denial would be an economic hardship for the co-applicant but would prevent a larger storage area in a visible from two arterial streets location.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Commercial Locational Guideline No. 3 of *The Wichita-Sedgwick County Comprehensive Plan* states that commercial development should have required site design features that limit noise, lighting and other aspects of commercial activity that may adversely impact surrounding residential land uses.
6. Impact of the proposed development on community facilities: The outdoors storage facility will not place any additional demand on public services other than potentially code enforcement.
7. Opposition or support of neighborhood residents: District Advisory Board II recommended approval. Staff has received one phone call expressing concern about the potential for the storage area to become unsightly.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **SHERMAN** seconded the motion, and it carried (10-0).

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7. **Case No.: CON2009-34** - Roxanna Austin and Sharon Delyria Request: County Conditional Use for Accessory Apartment on property zoned RR Rural Residential on property described as:

Legal Generally located on the south side of 76th Street South 1/4 mile west of 55th Street West/Hoover Road.

BACKGROUND: The applicants are requesting a Conditional Use to allow an accessory apartment on Lot 4, Block B, Aqueous Acres, 6001 West 76th Street South. The mother of one of the applicants' will live in the accessory apartment. The 6.5-acre subject site is zoned RR Rural Residential ("RR"). Because the proposed additional structure will contain a kitchen and sleeping quarters, it is classified as dwelling unit and thus requires a Conditional Use approval for an accessory apartment. The site is located in

Sedgwick County, within the City of Haysville's zoning area of influence, and as such will be considered by their Planning Commission at their November 12, 2009, meeting; Unified Zoning Code (UZC), Art. V, Sec. V-b, 4(d).

The site plan submitted by the applicant shows the accessory apartment sitting in front of the primary residence on the north side of the site, towards 76th Street South. An accessory building can be located closer to the front property line than the principal building on tracts/lots 5-acres or more in size; the subject lot is 6.5-acres, UZC, Art III, Sec III-D, 7.e (2). The site plan shows the primary residence, the accessory apartment and the lagoon to be located behind the platted 35-foot setback and 25-foot drainage and utility easements on its north, front, side. It also shows all structures and the sewage lagoon to be outside a large platted floodway easement on the site's south side. The accessory apartment is proposed to have a separate drive onto 76th Street. 76th Street provides access for the site onto Hoover Road.

Built in 2005, the applicant's current residence is a one-story, stick frame, partial brick and lap siding, building, approximately 1,600-square feet in size, with attaches garage. No square footage, no building materials, and no garage are shown for the proposed accessory apartment; however, in order to be considered an accessory residential structure the requested apartment must have less square footage than the principal structure.

The subject site is located in the partially developed Aqueous Acres addition, which consists of 12 lots, ranging in size from approximately 5-10 acres. The existing single-family residences in the subdivision have been built from 1999 through 2005. There are large lot/tract single-family residences abutting and adjacent to all sides of the site. There is another accessory apartment in this subdivision, CON2004-31, located on the southwest corner of 76th and Hoover Road. Both the Haysville Planning Commission and the MAPC approved CON2004-31. The site is approximately 2-miles west of the city of Haysville and is outside its growth area.

As per the Unified Zoning Code, the "Conditional Use" requirements for accessory apartments stipulate the following:

- (a) A maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling.
- (b) The appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood. **Minimum Standard per the UZC Residential Designed Manufactured Home, per Haysville Planning Commission.**
- (c) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium.
- (d) The water and sewer service provided to the accessory structure shall not be provided as separate service from the main dwelling. **Remove water per Haysville Planning Commission)**

CASE HISTORY: The property is part of the Aqueous Acres addition, which was recorded with the Register of Deeds August 13, 1990.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	Large lot single-family residences
SOUTH:	RR	Large lot/tract single-family residences
EAST:	RR	Large lot single-family residences
WEST:	RR	Large lot single-family residences

PUBLIC SERVICES: Hoover Road is a sand and gravel Ohio Township road. The 2030 Transportation Plan projects no change in its status. 76th Street South is a sand and gravel residential road. The site has access to public water from the City of Clearwater and is outside any rural water

districts, but the site is served by a well. The site has a lagoon, as it currently has no access to public sewer.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as “Rural” and outside of the City of Haysville’s growth area. The Rural classification is located outside of any city’s growth area and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. The policies of the Unified Zoning Code allow one accessory apartment to be associated with a principal dwelling as a Conditional Use if the proposed use is compatible with the principal dwelling, is in character with the surrounding residential development, is accessory to the main structure in size, remains in a single ownership, and obtains water and sewer service from the main dwelling hook-up.

RECOMMENDATION: Based upon information available prior to the public hearing, Staff recommends that the request be APPROVED subject to the following conditions being completed within a year:

1. The accessory apartment shall be subject to all requirements of Section III-D.6.a of the Unified Zoning Code; including the appearance of the accessory apartment shall be compatible with the primary residence and shall not be larger in floor area than the principal structure.
2. The applicant shall obtain all applicable permits, including but not limited to building, health, and zoning.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are numerous large tract/lot single-family residences with adjacent agricultural land in the area. The site sits in a partially developed large lot single-family residential subdivision, with the existing houses having been built from 1999 through 2005. Most of the existing houses are single story, stick frame, partial brick with lap siding. The exceptions are a log home and a metal residence and attached garage in the subdivision. There are outbuildings on many of the tracts/lots, along with the residential structures, including barns or sheds for horses. The applicant’s accessory apartment would be the second (CON2004-31) in the subdivision and in the immediate area.
2. The suitability of the subject property for the uses to which it has been restricted: Accessory apartments are allowed as a Conditional Use in RR zoning provided the applicant and the site meet the specified criteria. The application and the site appear to meet these criteria.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental effect should be minimized by the conditions for accessory apartments by the UZC and the Conditional Use.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The UZC makes specific provision for accessory apartments in RR zoning. This application appears to comply with all the provisions outlined in the UZC for accessory apartments.
5. Impact of the proposed development on community facilities: The applicants’ request should have a minimal impact on community facilities; there is no public water or sewer available at this time. The site is outside any rural water district. An increase in traffic will be minimal.

BILL LONGNECKER, Planning Staff presented the Staff Report. He reported that the Haysville Planning Commission approved the application with conditions including waiving the requirement that the water be on the same billing as the primary structure; that the sewer would remain with the primary structure; and they also requested additional language be added requiring the minimum standard for the accessory apartment to be a “Residential-Design” manufactured home as defined in the Unified Zoning Code (UZC).

MOTION: To approve subject to staff recommendation.

J. JOHNSON moved, **SHERMAN** seconded the motion, and it carried (10-0).

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8. **Case No.: PUD2009-06** - Prairie Polo, Inc., c/o Jack L. Shelton (owner), Great Plains Equestrian Training (applicant), Mike Dirck (agent) Request Create County Planned Unit Development (PUD #33) to allow outdoor recreation, associated retail, an arena, stables, camping, banquet halls, classrooms, offices, signs, retail and a billboard on property described as:

The West half of the Northeast Quarter of the Southwest Quarter of Section 16, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT the North 330 feet thereof.

AND

The East half of the Northeast Quarter of the Southwest Quarter of Section 16, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT the North 330 feet thereof.

AND

The South half of the Southwest Quarter of Section 16, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; EXCEPT that portion taken for Protection Drainage District of Sedgwick County, Kansas, in District Court Case No. 73915; and except that portion taken by the Kansas Turnpike Authority, in District Court Case NO. A-54472 and except that tract beginning 20 feet North and 30 feet East of the Southwest corner of the Southwest Quarter of Section 16, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas; thence East parallel with the Section line, 420 feet; thence North 50 feet; thence in a Northwesterly direction to a point 290 feet due North of a point of beginning; thence South 290 feet to the place of beginning.

AND

The Northwest Quarter of the Southwest Quarter of Section 16, Township 29 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, EXCEPT the North 330 feet thereof, generally located at the northeast corner of 95th Street South and Broadway.

BACKGROUND: The applicants are proposing the creation of Planned Unit Development #33 (PUD). The PUD will replace the RR Rural Residential (“RR”) zoning on the 124.80-acre tract and CON2008-31. The proposed PUD will allow additional buildings for classrooms, offices, and banquet hall with a kitchen for fund raisers and group events associated with the polo complex. Alcohol sales are proposed with conditions. The PUD will also allow additional signage for advertising sponsors of the complex, additional directional signage, and liability signs. The applicants also propose to approach K-DOT to place an off-site billboard(s) located on its east side, which abuts the Kansas Turnpike/I-35. Retail associated with the polo complex would also be permitted, including tack and equipment for the horses. The area is located within the City of Haysville’s zoning influence and as such will be considered by their Planning Commission prior to the MAPC’s public hearing meeting.

The area around the site is developed with large tract and single-family residential subdivisions, zoned RR and SF-20 Single-family Residential (“SF-20”). There are some LC Limited Commercial (“LC”)

zoned residential properties and small, older retail around the 95th Street South and Broadway Avenue /US-81 abut intersection. There are agricultural fields surrounding the area's residences and part of the site. The Kansas Turnpike/I-35 abuts the east side of the site and 95th and Broadway/US-81 abut its south and east sides. These three roads separate the site from residential development located west, east and south of the site. There are two large tract single-family residences/farmsteads abutting the north side of the site, with the Polo residential subdivision (4-13-1995) located north of them. There is no exit off of the Turnpike onto 95th. The nearest exists to the site off of the Turnpike are the Mulvane exit, located approximately 3 miles south of the site at 119th Street South, and the Derby and Haysville exit, located approximately 3 miles north of the site, at the 71st Street South. The Mulvane exit would be the exit used for land currently under consideration for the location of the Sumner County casino and resort.

CASE HISTORY: The property is unplatted. CU-486 was approved by the Haysville Planning Commission, with conditions, July 9, 1998. CU-486 was approved (9-0) by the MAPC, with conditions, July 16, 1998. CU-486 allowed "Outdoor Recreation and Entertainment," for polo fields, with conditions for an approximately 23-acre RR zoned site, located northeast of the Broadway Avenue/US 81 – 95th Street South intersection. CON2008-31 amended CU-486 by increasing the size of the site to approximately 124.80-acres and by revising numerous conditions attached to CU-486. Those amended conditions include allowing additional storage and, maintenance buildings, barns/stables, paddocks, an additional polo field, 100-foot setbacks, one full time drive/access onto Broadway, 35-foot (including the base) pole lights for matches that may extend into the evening, for packing up and cleaning up after matches, to be on no later than 10 PM, allow portable concessions for nonprofit groups or special events, allow portable bleachers, signs along Broadway and 95th Street South, outdoor speakers with conditions, teaching of polo, boarding of polo ponies, and limited overnight camping for stockmen; see attached CON2008-31 Resolution.

ADJACENT ZONING AND LAND USE:

NORTH:	RR, SF-20	large tract & platted single-family residences
SOUTH:	RR, LC, SF-20	large tract & platted single-family residences, old smaller retail
EAST:	RR	Kansas Turnpike/I-35, single-family residences, manufactured homes
WEST:	LC, SF-20, RR	large tract & platted single-family residences, construction services, agricultural fields

PUBLIC SERVICES: There is no public water or sewer available and the site is outside of all Rural Water Districts. Additional access onto Broadway/US 81 must be approved by K-DOT and the County Engineer. A portion of the site is located in an area that is in the FEMA flood zone, which means development within it must be addressed with an approved drainage plan and must meet all standards for construction of buildings/structures on the site, per the County Engineer and Code Enforcement.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as "rural." The rural classification is outside of any city's growth area and is intended to accommodate agricultural uses, rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County and predominately large lot residential development. The applicant's previous Conditional Use applications (CU-486 & CON2008-31) established "Outdoor Recreation and Entertainment," and a "Riding Academy" for polo fields, with conditions, including the RR zoned site growing from a 23-acres to 124.80-acres. Stabling and riding horses is a common rural activity and permitted by right. Expanding stabling and riding into group activities using the horses for the teaching of riding or games involving riders and horses, can be (and have been) considered by a Conditional Use in the RR zoning district. The proposed PUD expands signage, including proposed an offsite billboard(s), (contingent on review and permitting by K-DOT and Sedgwick County Sign Code), approves the sale of alcohol with conditions, and limited retail. Rather than spot zone LC within the Conditional Use, for the retail and off site billboard and proposes another amendment to the Conditional Use to address other changes, including permanent

seating around the arena, another polo field, wind generators, additional concession areas, more buildings and different use in those buildings and signage, the PUD was applied for. A PUD is intended to:

- (1) Reduce or eliminate the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots. The proposed PUD allows one zoning for the entire property, whose main uses are still an “Outdoor Recreation and Entertainment” and a “Riding Academy.” As written in the provisions of the PUD, the proposed additional uses would be in support and accessory to these two main uses
- (2) Allow greater freedom in selecting the means to provide access, light, open space and design amenities. Location of facilities on the site are fluid within the provisions of the PUD, including 100-foot setbacks, landscape buffers, and what will be determined by the required platting.
- (3) Promote quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses. The main uses of the site “Outdoor Recreation and Entertainment” and a “Riding Academy” and their supporting uses require both a large rural site, with the ability to generate money for maintenance, improvements and continuation of the polo complex, the proposed PUD does this.
- (4) Allow deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code. The PUD allows mixed uses without inappropriate LC spot zoning.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the proposed PUD be APPROVED, subject to platting within a year and the attached General Provisions and the provisions for the specific parcels (see attached):

This recommendation is based on the following findings:

1. The zoning, uses and character of the surrounding area: The area around the site is developed with large tract and single-family residential zoned RR and SF-20 Single-family Residential (“SF-20”). There are some LC Limited Commercial (“LC”) zoned residential properties and small, older retail around the 95th Street South and Broadway Avenue /US-81 abut intersection. There are agricultural fields surrounding the area’s residences and part of the site. The Kansas Turnpike/I-35 abuts the east side of the site and 95th and Broadway/US-81 abut its south and east sides. These three roads separate the site from residential development located west, east and south of the site. There are two large tract single-family residences/farmsteads abutting the north side of the site, with the Polo residential subdivision (4-13-1995) located north of them. There is no exit off of the Turnpike onto 95th. The nearest exists to the site off of the Turnpike are the Mulvane exit, located approximately 3 miles south of the site at 119th Street South, and the Derby and Haysville exit, located approximately 3 miles north of the site, at the 71st Street South. The Mulvane exit would be the exit used for land currently under consideration for the location of the Sumner County casino and resort.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture uses and large lot residential uses. The site could be used for a single-family residence or agriculture. The site’s previous Conditional Uses, CU-486 & CON2008-31, allows the polo complex with conditions; see attached CON2008-31 Resolution. The site could continue to be used as zoned.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD will allow three (3) additional buildings for classrooms, offices, and a banquet hall with a kitchen for fund raisers and group events associated with the polo complex. Alcohol sales are proposed with conditions. The PUD will also allow additional signage for advertising

sponsors of the complex, additional directional signage, and liability signs. The applicants also propose to approach K-DOT to place an off-site billboard located on its east side, which abuts the Kansas Turnpike/I-35. Retail would also be permitted including tack and equipment for the horses and retail sales associated with the polo complex. Signage, retail sales and alcohol sales will increase revenue for the site, which in turn will generate money for maintenance, improvements and continuation of the polo complex. Any time alcohol sales are allowed, there is a possible negative impact on an area, however the proposed provisions of the PUD are intended to lessen that possibility. Traffic could increase off of the site.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed PUD expands signage, including proposed off site billboards, contingent on review and permitting by K-Dot and Sedgwick County Sign Code, approves the sale of alcohol with conditions, and limited retail. Rather than spot zone LC within the Conditional Use, for the retail and off site billboard and proposes another amendment to the Conditional Use to address other changes, including permanent seating around the arena, another polo field, wind generators, additional concession areas, more buildings and different use in those buildings and signage, the PUD was applied.
5. Impact of the proposed development on community facilities: Impact should be minimal with the provisions of the PUD and possibly improved with the required platting, which will more comprehensively address drainage.

BILL LONGNECKER, Planning Staff reported that the item has been deferred to the December 17, 2009, MAPC Hearing and the December 10, 2009, Haysville Planning Commission Meeting.

MOTION: To defer the item to the December 17, 2009, MAPC Hearing.

HILLMAN moved, **DOWNING** seconded the motion, and it carried (10-0).

NON-PUBLIC HEARING ITEMS

9. **Case No.: DR2009-08** Request Downtown Revitalization Master Plan
General Location: Downtown

Background: In late 2008, Wichita Mayor Carl Brewer attended dozens of meetings throughout the community to discuss a vision of creating a downtown that is "Everybody's Neighborhood," a vibrant community gathering place that connects the Old Town District, the new Intrust Bank Arena and Riverfront improvements including the Wichita WaterWalk and the Museum District. The response from the community to the Mayor's vision was overwhelmingly positive, and the meetings that the Mayor attended garnered hundreds of comments and suggestions from citizens about their vision for downtown Wichita.

In response, the Wichita City Council voted unanimously on December 16, 2008, to support Mayor Brewer's call for a community vision for the next phase of downtown revitalization and approved the appointment of a steering committee to help engage the public on a vision for downtown. Over the next several months the steering committee and its associated subcommittees held numerous public events to elicit community input on the need for a community vision for the next phase of downtown revitalization. Again, the response from the community was overwhelmingly positive, with literally hundreds of people from all segments of the community taking the time out of their busy schedules to attend meetings and express support for the effort.

Responding to community support and their own visions of downtown revitalization, the Wichita Downtown Development Corporation (WDDC) Board of Directors unanimously voted on April 23, 2009, to commit \$175,000 to a Downtown Revitalization Master Plan as seed capital to forge partnerships and secure additional funding through the City of Wichita and the private sector. Private sector contributions to the development of a downtown plan have exceeded \$100,000.

On May 5, 2009, the City Council authorized \$225,000 in funding and initiated the process to select a design team to prepare a Downtown Revitalization Master Plan. A Request for Qualifications was sent to over 170 local, regional, and national vendors. A total of 32 design teams responded, and a 13-member Selection Committee appointed by the City Manager reviewed and analyzed the written responses and selected nine (9) design teams to interview by telephone. The Selection Committee recommended four (4) of the design teams as the most qualified to prepare the plan, and the Downtown Revitalization Steering Committee that was appointed by the City Council to oversee plan development endorsed the recommendation of the Selection Committee on July 23, 2009.

The four (4) finalists that submitted a detailed proposal are: (1) Chan Krieger Sieniewicz, (2) Crandall Arambula, (3) Goody Clancy, and (4) Looney Ricks Kiss. The Selection Committee reviewed and analyzed each finalist's written proposal. Each finalist made a public presentation that was also attended by Steering Committee and Selection Committee members. Members of the public submitted comment cards at the public presentations, and the Selection Committee considered the public input. The Selection Committee interviewed each of the finalists and had a spirited debate regarding the merits of each proposal. Given the high quality proposals and outstanding design teams assembled by each finalist, the decision of the Selection Committee to recommend a single finalist was extremely difficult. After thorough consideration, the Selection Committee recommended the design team assembled by Goody Clancy to develop the Downtown Revitalization Master Plan, and the Downtown Revitalization Steering Committee endorsed the recommendation of the Selection Committee on September 25, 2009.

Goody Clancy is located in Boston, Massachusetts, and is a 110-person architecture, planning, and preservation firm that was established in 1955. Goody Clancy has an award-winning national planning and urban design practice whose downtown planning work includes Columbus, Ohio; Norfolk, Virginia; Asheville, North Carolina; and Boston, Massachusetts. The design team assembled by Goody Clancy and their roles in the development of the plan are:

- Kittelson & Associates of Baltimore, Maryland – transportation
- W-ZHA of Annapolis, Maryland – office and hospitality markets, development financing
- MJB Consulting of New York, New York – retail markets
- Zimmerman/Volk of Clinton, New Jersey – housing markets
- Placematters, Inc. of Denver, Colorado – stakeholder engagement
- Professional Engineering Consultants of Wichita, Kansas - infrastructure

The strengths of the Goody Clancy team that led to their selection are:

- Demonstrated ability to conduct sound planning with a business perspective that will result in a market-based business plan for downtown that can be quickly and successively implemented
- Impressive economic analysis experience including market-specific national experts on development financing, housing, and retail
- Proven track record of implementation success with downtown revitalization in other communities, including a demonstrated capacity of establishing working relationships with developers to make projects happen
- High touch strategies for public engagement so that all segments of community will have meaningful input into plan development and implementation
- A proposal that best met the fundamental principles of the Downtown Revitalization Master Plan stated in the Request for Proposals

On October 13, 2009, the City Council approved a \$500,000 contract with Goody Clancy to develop a Downtown Revitalization Master Plan. The Master Plan will be jointly funded by the City of Wichita (45%) and the Wichita Downtown Development Corporation (55%). Project oversight also will be jointly managed through co-project managers Jeff Fluhr, President, Wichita Downtown Development Corporation and Scott Knebel, Principal Planner, Wichita-Sedgwick County Metropolitan Area Planning Department.

The plan is expected to take approximately 12 months to complete. The end result will be a Downtown Revitalization Master Plan that will be adopted as an element of the Wichita-Sedgwick County Comprehensive Plan.

Goody Clancy began work on the project immediately with three of their design team members attending the city-to-city visit to Chattanooga along with 63 delegates from Visioneering Wichita to learn first-hand about Chattanooga's revitalization of their downtown, which has seen remarkable success over the last 10 years. During the first week of November, the Goody Clancy team visited Wichita and held 45 small group stakeholder interview sessions that were attended by 165 stakeholders that were primarily elected officials and real estate development interests.

Goody Clancy will next visit Wichita during the first week of December. Additional small group stakeholder interview sessions will be held that focus primarily on transportation, infrastructure, park/open space, community services, and historic preservation. Goody Clancy also will be conducting several community "walkshops" on December 3 and 4. The "walkshops" will be facilitated by Placematters and involve a structured community participation process whereby participants take photographs of downtown and then have a facilitated discussion about the images and the opportunities and constraints they represent for downtown revitalization.

Goody Clancy will then hold a "visioning workshop" on January 12, at which the entire community will be invited to participate in a workshop that involves small breakout groups developing the elements of a vision statement for the future of downtown. Goody Clancy will also hold another two and a half days of stakeholder interviews during this trip to Wichita.

In February, Goody Clancy will participate in the annual meeting of the Wichita Downtown Development Corporation on February 25. On February 26, the Goody Clancy team will host informal drop-in sessions at several downtown art galleries in conjunction with Final Friday at which members of the community can learn about the downtown plan and provide input. On February 27, the Goody Clancy team will host a full day charrette at which the entire community will be invited to give "hands on" input into the development of the plan.

Specific details regarding the time and location the meetings described above are being finalized. Up-to-date information on the downtown planning process will be maintained on the Wichita Downtown Development Corporation website: www.downtownwichita.org

Recommended Action: Assign the Advance Plans Committee to meet periodically (approximately monthly) during the plan development process to receive status updates and provide input into the project.

SCOTT KNEBEL, Planning Staff presented the Staff Report. He said Mayor Brewer gave the "Everybody's Neighborhood" presentation to dozens of community groups and it received an overwhelmingly positive community response. He said the City Council supported development of a downtown plan and created a Steering Committee. He said the Steering Committee in turn held numerous public meetings to gather input and that effort also received positive responses. He said the Wichita Downtown Development Corporation (WDDC) unanimously approved \$175,000 for the plan as seed capital and the Wichita City Council approved \$225,000 for the plan. In addition, he said they received donations totaling over \$100,000 from the private sector for plan development.

KNEBEL said a “Request for Qualifications” was developed and sent to over 170 firms. He said 32 responses were received and the Committee interviewed nine firms over the phone and selected four finalists, which were: Chan Krieger Sieniewicz, Crandall Arambula, Goody Clancy and Looney Ricks Kiss. He said a “Request for Proposal” was developed and each firm gave a public presentation, received comment cards and finally participated in a panel interview.

KNEBEL said the firm of Goody Clancy, a planning and urban design firm from Boston, MA was selected. He commented that they have designed downtown plans for Columbus, OH; Norfolk, VA; Asheville, NC and Boston, MA. He briefly reviewed the team members, which included Kittelson & Associates – transportation specialists; W-ZHA – office and hospitality markets and development finance specialists; MJB Consulting – specializing in retail markets; Zimmerman/Volk – specializing in housing markets; Placematters – specializing in stakeholder engagement and added that the local firm of PEC would review the proposed plan infrastructure. He commented that some of the strengths of the team included their experience in planning with a business perspective; their market-specific expertise in economic analysis; a proven track record of implementation success; broad-based community engagement; and their proposal best met the City’s fundamental principles.

KNEBEL said the City Council approved the contract on October 13 and authorized that the project be jointly managed by the City and WDDC. He said this will be a year-long planning process that will result in an amendment to the Wichita-Sedgwick Comprehensive Plan. He said after Council approval, they immediately started work on the plan. He said 63 community members participated in the Chattanooga city-to-city visit; they have held over 45 stakeholder interviews and received input from over 165 people in the community. In addition, he said they will be hosting a “Walkshop”, December 4-5, which basically measures the “walkability” of the city. He said they will also host various meetings to talk with the public more about the plan and provide information on how to participate in the Visioning Workshop to be held on January 12. He said more stakeholder interviews will be conducted in January along with an event inviting community participation in an education seminar to explain the goals of the plan. He said seminar participants will break down into small groups to develop a vision statement to guide the plan. He said the WDDC will hold their annual meeting and Goody Clancy will host an informational open house during the “Final Friday” along with a design charrette, February 25-27. He concluded by saying that the website will be constantly updated with information and the specific times and locations of events.

KNEBEL concluded the presentation by requesting that the Planning Commission assign the Advance Plans Committee to oversee the project and to meet periodically (approximately monthly) during the plan development process with the Planning Commission to receive updates, and provide guidance and input into the project. In addition, he said the Planning Commission will see a draft document of the plan later in the coming year.

MOTION: To assign the project to the Advance Plans Committee and that they periodically update the Planning Commission of the plans during the development process.

DOWNING moved, **J. JOHNSON** seconded the motion, and it carried (10-0).

CHAIRMAN VAN FLEET mentioned that each Planning Commissioner receives notification of the Advance Plans Committee meetings. He encouraged all members to attend the meetings and participate in discussion, but reminded members that only those members on the Advance Plans Committee have a vote on committee matters.

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- 10. Case No.: DER2009-10** - Request Report on request to consider amending Recycling Collection Stations to allow acceptance of used clothing.
General Location :City-wide

BACKGROUND: At the MAPC meeting held August 7, 2009, a MAPC commission member asked if staff could provide some information about the American Recyclers' drop-off boxes he had observed being placed in parking lots around town. Staff gathered some information from representatives of the company, which was summarized in an August 13, 2009, memo from Donna Goltry. A portion of that memo is duplicated below:

The boxes are being placed in parking lots by a private company. The company representative said that the company receives permission from a property owner to place the red box on the parking lot. A sign is attached to the box indicating the types of items they accept. This includes: clothing, shoes, used housewares, used small appliances, dishware and other kitchen items. The sign provides information on where to contact to the company and has a "Child Start" logo on the boxes. The representative said that his company makes a donation to Child Start and has permission from this entity for placement of the logo on the boxes. The company picks up the items and forwards them to its corporate location. According to his information, the items are used to help people in need and some of the less usable items are recycled as rags. He indicated about 65 boxes are located within the City of Wichita.

At the October 22, 2009, MAPC meeting staff was directed, after hearing testimony from the agent for American Recyclers and Goodwill Industries of Kansas, to do some preliminary research on how other communities regulate this activity and return to the November 19, 2009, meeting.

Current Regulations

The *Wichita-Sedgwick County Unified Zoning Code* July 9, 2009 Edition ("UZC"), Sec II-B.11.e defines "recyclable material" as "material including but not limited to metal, glass, plastic, and paper that is intended for reuse, remanufacture or reconstitution for the purpose of using the altered form. Recyclable Material shall not include hazardous materials, industrial scrap materials or used clothing, furniture, appliances or parts thereof."

Because of the prohibition on used clothing as a "recyclable material," used clothing cannot legally be collected at a "recycling collection station, private," a "recycling collection station, public" or a "recycling processing center," as defined in the UZC, Sec II-B.11.f. g and h respectively. **Private Recycling Collection Stations** are "outdoor freestanding containers that are designed to receive and store pre-sorted Recyclable Materials not intended for disposal and that are available only to those members or employees of the Church, School, office building or other Principal Use located on the same property as the station. Containers shall be constructed and maintained with durable waterproof and rust resistant materials and shall be equipped with lids and doors to prevent access to stored materials by animals or vermin and to preclude stored materials from being scattered by wind. This definition shall not include containers used for curbside recycling or containers used by a commercial or industrial enterprise for collection and / or compression of materials that are a byproduct or integral part of such enterprise." Private recycling stations are permitted by-right in all districts subject to Supplementary Use Regulations (Sec. III-D.6.q): 1) containers shall not exceed a height of eight feet nor occupy an area greater than 100 square feet; 2) no storage is allowed outside the containers; 3) no power-driven equipment shall be used to bale, crush, separate or process the materials at the site; 4) no payment shall be made to the contributor for the recyclable materials brought to the station; 5) the container shall be screened by a solid fence or screening wall of a height equal to or greater than the height of the container if the container is visible at ground level view from a residential district; 6) private recycling processing stations shall be considered accessory structures and shall be subject to all accessory structure setback requirements of the zoning district in which the structures are located and shall be subject to the compatibility site design standards for dumpsters (Sec. IV-C.7.b); 7) prior to establishing a private recycling station, the operator shall obtain a location permit from the Zoning Administrator. The operation of a private recycling collection station shall be subject to appropriate local health codes.

A Public Recycling Collections Station “means outdoor freestanding containers not occupying an area greater than 400 square feet (exclusive of area required for vehicular access) that are designed to receive and store pre-sorted Recyclable Materials not intended for disposal and that are available to the general public. Containers shall be constructed and maintained with durable waterproof and rust-resistant materials and shall be equipped with lids or doors to prevent access to stored materials by animals or vermin and to preclude stored materials from being scattered by the wind.” Public recycling collection stations are permitted by-right in the LC, OW, GC, IP-A, IP, CBD, LI, GI and AFB districts but are subject to Supplementary Use Regulation r (Sec III-D.6. r. 1-9): Public recycling collection stations shall be subject to all of the following standards when located in the LC district. When the public recycling collection station is located in one of the other zoning districts that permit the use, they shall be subject to 9 only. 1) Containers shall not exceed a height of 10 feet; 2) no storage shall be allowed outside the containers; 3) no power-driven equipment shall be used to bale, crush, separate or process the materials at the site; 4) a minimum of two off-street parking spaces shall be provided within 50 feet of the station, the station shall not occupy any parking spaces required for other uses on the site; 5) the station shall be located at least 100 feet from residential zoning districts and lots containing residential dwelling units; 6) access to the station shall be from an arterial or collector street; 7) the owner or operator of the station shall police site no less than once a day to assure that no litter accumulates and that the containers are emptied as needed; 8) informational signs shall be posted that indicate how materials are to be separated and stating any limitations on the types of materials accepted for recycling, the signs shall be posted on the walls of the containers, and shall not occupy more than 25 percent of the surface area of the containers nor extend more than two feet above the top of the containers; 9) prior to establishing a private recycling station, the operator shall obtain a location permit from the Zoning Administrator; the operation of a private recycling collection station shall be subject to appropriate local health codes and 10) no payment shall be made to the contributor for the recyclable materials brought to the station.

A “**Recycling Processing Center** means a Building or land use in excess of 400 square feet devoted to the receipt, separation, storage, baling, conversion and / or processing of Recyclable Materials, but not Wrecking / Salvage Yard.” Recycling processing centers are permitted by-right in the OW, GC, IP-A, IP, CBD, LI, GI and AFB districts but they are subject to Supplementary Use Regulations: 1) the operation of recycling processing centers shall be subject to approval by appropriate local health codes and 2) recycling processing centers shall be permitted as an indoor use in the GC, CBD, LI and GI districts, such uses may be allowed as an outdoor use in the LI district if first reviewed and approved as a Conditional Use pursuant to Section V-D and recycling processing centers shall be permitted as an outdoor use in the GI district.

Based upon the current situation where “used clothing” is excluded from the definition of “recyclable materials,” used clothing is not legally permitted to be recycled at either type of recycling collection station or at a recycling processing center; however used clothing is allowed to be recycled at a “**Secondhand Store**” which is defined by the UZC, Sec II-B.12.g as “a retail establishment other than an antique store that engages in the purchase and resale of used goods such as clothing, furniture, appliances, books and other household items.” Secondhand stores are permitted by-right in the LC, GC, CBD, LI, GI and AFB districts.

The current definitions for “Recyclable Material” and both recycling collection stations are essentially the same when compared to the pre-1996 code as are the development standards and the districts in which they are permitted. (See Zoning Ordinance, City of Wichita 11-13-92 edition, Sections 28.04.026 and 288.04.163.) The current definitions and standards are not recent requirements enacted since the adoption of the unified code.

Other Jurisdictions

Planning staff contacted some other cities to see if they allow the collection of used clothing in curbside bins: Portland, Oregon, does not; Oklahoma City allows it with minimal oversight and Overland Park, Kansas, allows curbside collection of used clothing only after a site plan has been approved by their planning commission, and subject to certain development standards. Considerations the Overland Park

Planning Commission must address when reviewing a site plan include: impact of the proposed activity on adjacent properties and use; visual appearance of the area and traffic circulation. Some of Overland Park's development standards include: curbside collection in residential districts is only allowed at nonresidential uses such a church, school or community building; bins cannot be within building setbacks and cannot take up required parking spaces.

Interested Party Comments

Attached is correspondence from Goodwill Industries of Kansas, Inc. and the agent for American Recyclers. Goodwill Industries is advocating for the code to remain unchanged. Issues they cite are: bins are difficult to police and prevent the dumping of unwanted materials such as trash, mattresses or furniture; bins can harbor vermin; it can be difficult to get bin owners or property owners to respond quickly; bins can be a safety hazard and multiple collection bins can impact the community's visual quality.

American Recyclers is proposing an amendment to the Unified Zoning Code that creates a use type just for the recycling of used clothing. The proposed amendment is attached.

Staff Recommendation

Staff recommends the code remain unchanged. This recommendation is based upon the fact that the current code appears to be working satisfactorily. Various businesses have invested in retail store collection as required by the code for many years; storefront collection provides for manned oversight that eliminates or minimizes dumping and dropping off of improper material and provides for inspection that can prevent the spread of disease vectors or fire hazard and store front collection minimizes the proliferation of bins scattered around the community. However, if the MAPC feels a code amendment is needed an appropriate motion could be: Request staff to prepare an amendment to allow the curbside collection of used clothing.

DALE MILLER, Planning Staff presented the Staff Report.

SHERMAN asked if this was a public hearing.

MILLER said staff would like the Planning Commission to either direct staff to go with staff's recommendation to leave the Code as is, or proceed with an amendment. He said this item was not an advertised amendment to the Unified Zoning Code (UZY). He said this is another step for the Commission to tell staff how they would like them to proceed. He said if the Commission tells staff to go ahead with the amendment, staff will meet with the applicant/agent and work on a proposal to bring back for an official public hearing of an amendment to the UZY.

SHERMAN commented he was confused when Staff stated that Goodwill would speak about their correspondence.

MILLER said Staff thought the Commission would want to allow interested parties to speak before they gave Staff direction on the issue.

MILLER STEVENS said she is still concerned whether this is just a simple matter of changing the Code or are there other considerations that need to be taken into account. She asked if the Code will need to be rewritten, and said she was struggling with how much effort is going to go into changing the Code and what we are trying to accomplish.

MILLER said Staff would need some direction from the Planning Commission that they preferred something similar to what is done in Overland Park with a site plan approvable only by the Planning Commission or some type of an administrative procedure. He said a less complicated way to handle the request was to change the UZY and allow this as a permitted use with whatever standards the Commission feels is appropriate such as setbacks, size, etc.

DIRECTOR SCHLEGEL mentioned that the Commission also had the option to do nothing.

BOB KAPLAN, AGENT FOR THE APPLICANT AMERICAN RECYCLERS showed a video on recycling textiles from the Secondary Materials and Recycled Textiles Association “SMART.”

KAPLAN said when he was first approached about this matter he reviewed the Code sections. He said he made a simple determination that the Code could be revised by deleting the word clothing from the definition of items which could not be recycled and allow recycling of clothing. He said that was speaking technically to the verbiage of the ordinance; however, he said this issue has gone well beyond what started out as a small ordinance change and has changed into certain concerns that need to be addressed. He thanked the Commission for the opportunity to discuss the issue and perhaps make a more comprehensive change to the Code which will allow clothing to be recycled. He said there is no reason not to recycle clothing and that he didn't think anyone has any rational or reasonable objection to the recycling of clothing. But, he said that was not the issue. He said he was suggesting a more comprehensive amendment to the Code and to the Supplemental Use Regulations that would place additional conditions on recycling/collection stations and definitions dealing with recycling/collections stations. He said the amendment they have suggested is not intended to eliminate opposition to clothing recycling because they don't think anyone is going to quarrel with the advantages of recycling clothing. He said they want to address concerns expressed about curbside collection containers because they believe the real issue is how to control and legislate curb side recycling. He referred Commission members to the booklet of information on the recycling industry. He said recycling in and of itself is obviously a good thing for a number of reasons including reducing the waste stream and helping the poor in third world countries. He said they are trying to provide mitigation and control issues that have attached themselves to the curbside collection boxes. He said there are two basic concerns, one of which is the proliferation of boxes if American Recyclers is allowed a box at say Market and Central, why can't 10 other companies come in at the same location. He said people, staff and neighbors, don't want that. He said the other primary issue is Code enforcement. He said some people find it convenient to use these locations as an excuse to dump stuff and some of that is difficult to control.

KAPLAN asked for an additional five minutes.

MOTION: To give the agent an additional five minutes speaking time.

MITCHELL moved, **DOWNING** seconded the motion, and it carried (10-0).

KAPLAN referred to correspondence and objections received by Commission members. He said he had representatives present from American Recycling and John Jenkins, Chairman of the Board of Child Start, to answer any questions. He said he is not saying that he has drawn the perfect ordinance but he has attempted to draw an ordinance limiting boxes one to a location, per zoning lot, Community Unit Plan (CUP) and Planned Unit Development (PUD). He mentioned that American Recyclers has 7-day pickup and that they visit every box every day; however, he did mention that they could do a pickup at 11:00 a.m. and then someone could dump mattresses at the location at 2:00 p.m. He said people will take advantage and that they can't control the locations 100% of the time, but when they get a call they are usually there within 45 minutes. He said he has submitted a draft proposal that he believes has enough substance, in his opinion, to at least be entitled to review by Planning Staff. He said he would like the Commission to give him that opportunity. He said he has not heard back from Staff because they don't know if the Commission wants to consider a change. He said he would like to draft an ordinance in final form for the Commission to pass judgment on it, read and study it. He said between the Code sections and Supplemental Use Regulations he believes he has accomplished quite a bit in regulating and mitigating any collateral issues. He said they would like another 30 days to be allowed to work with staff rather than the Commission voting the matter up or down today.

SHERMAN commented that he was not at the previous Planning Commission meeting where this matter was discussed and asked if the red bins that are being used right now are illegal.

JOE LANG, CHIEF DEPUTY CITY ATTORNEY said he would allow Planning Staff to address that question.

MILLER said curbside collection of used clothing is not a legal activity.

MITCHELL asked the agent if they would agree to the conditions used by Overland Park, Kansas, referred to in the Staff Report.

KAPLAN said yes, they will do that. In addition, he said as far as clothing collection not being a legal activity, they agree the boxes are out there but this company did not come in here to blatantly violate the City Code. He said they have boxes in Texas and Oklahoma and were not aware about the prohibition and City ordinance.

KENT ROWE, 3353 NORTH 159th STREET EAST, WICHITA, FORMER CHIEF OF ENVIRONMENTAL SERVICES FOR SEDGWICK COUNTY said he was representing the Miller Pro-Kansas Recycling Coalition in Wichita. He said they would like to see clothing recycled in Wichita. He said every week they have requests at the donation center on East Clark. He said the purpose of the recycling coalition is to cut down the amount of materials that end up in landfills and the burgeoning carbon footprint they cause. He said currently their facility cannot accept recycled clothing along with Styrofoam and a few other items. He said on behalf of the coalition they are willing to work with any person accepting reusable/recoverable clothing materials to cut the solid waste stream.

HILLMAN said he was familiar with the warehouse. He asked if they currently have the capacity to handle clothing as a separate item.

ROWE said they do not have a great deal of room and presently are not able to handle items of clothing. He said paper is the main item they handle at the location, along with certain types of steel.

FARNEY asked if they could receive clothing legally right now.

ROWE said "no."

FARNEY clarified if they wanted to receive clothing they could. He asked if they wanted containers out in the field or did they want other companies to bring them the material.

ROWE said the latter option has worked in the past.

MITCHELL asked Mr. Rowe the hours and days of operation at the facility.

ROWE said Tuesdays and Thursdays from 1:00-4:00 p.m. and Saturdays from 9:00 a.m.-3:00 p.m. every week.

SHERMAN asked them how many locations they currently have.

ROWE said just one at this time.

SHERMAN mentioned previous discussion about east and west side locations.

ROWE said this has been discussed in the past and if the City or anyone has an empty warehouse or facility they would be glad to look at it. He said they have long lines and citizens wait up to 10-15 minutes to get into the facility.

JOHN JENKINS, 1500 NORTH ARMOUR, WICHITA said he was present to represent the Child Start Organization. He said they are a non-profit organization that focuses on head start and early head start for children ages 0-5. He said they were approached by American Recyclers to partner with them which was very much in Child Start's interest. He said Child Start receives approximately \$2,000 each month in discretionary funds. He said because they are a smaller non-profit they don't hold large fund raising events so they very much appreciate American Recycler's efforts on their behalf.

HILLMAN asked when they were approached to join with the group.

JENKINS responded about one year ago.

HILLMAN asked if Child Start was a regional or national organization.

JENKINS said they are regional and cover the southern half of the counties in Kansas.

HILLMAN asked if Child Start worked with American Recyclers at other locations.

JENKINS responded "no" just in Wichita.

MILLER STEVENS clarified that Head Start received \$2,000 per month from American Recyclers. She asked what percentage of their total funding that was and where did their other funding come from.

JENKINS said they receive Federal and State funding also. He said this donation from American Recyclers was a huge part of their discretionary budget that they can use for the kids education, food for families, etc. He said they are told how they can spend the State and Federal funding they receive.

DAVE CHADICK, 730 NORTH MILSTEAD, WICHITA, VICE PRESIDENT OF INDUSTRIAL SERVICES, GOODWILL INDUSTRIES referred to his letter included in the agenda packet. He said he was present to answer any questions and that he would like to add some additional information after hearing today's discussion.

CHADICK said everything he has heard today is about recyclables and how this service is not being met in Wichita. He said since American Recyclers has come to Wichita, they have noticed a loss in recyclables going through their business as well as other thrift store businesses in the area. He said the recyclables they are referring to are not going into the trash but used to go through Goodwill Industries and other local businesses to support taxes and local jobs. He said the discussion wasn't about whether recycling services were being met, but about a Code change. He said a Code that we are fortunate to have in our community because it protects the community and our standard of living. He said the Code does not allow donation bins to be on every corner and the blight that usually accompanies them. He said the recyclable services they are referring to are being met today in the community. He said if American Recyclers does not feel the service is being met, he invites them to come to Wichita and open a business in the same manner Goodwill Industries operates which is lease or purchase a building and open a business and not have bins all over the City of Wichita. He said Goodwill Industries and other businesses are meeting those recycling needs including hosting drives with church groups, community groups and at the mall to pick up materials that may not come through the normal donation path. He asked the Commission not to consider this request as a code change to meet a service that isn't being met. He said this will just open up an opportunity to diminish community standards. He concluded by saying that what American Recyclers is proposing does not bode well for the look and appeal of the community.

DENNIS asked how many Goodwill stores are located in Wichita.

CHADICK said there are four stores in Wichita, one in Andover and one in Derby.

DENNIS asked where the stores were located and how much Goodwill Industries has invested in the Wichita, Sedgwick County area.

CHADICK said the stores are located northwest, south, east, and downtown.

EMILY COMPTON, PRESIDENT AND CEO, GOODWILL INDUSTRIES, 3636 NORTH OLIVER, WICHITA said Goodwill Industries has invested approximately six million dollars in buildings since 1974 but she said she does not know the current value.

DENNIS asked if the proceeds Goodwill gets from receiving items all go for charity or are they a for-profit organization.

CHADICK said it is all non-profit. He commented on the "SMART" video shown and said you could put Goodwill Industries, the DAV and Salvation Army on that video because it is a good representation of what goes on in the community but he did not believe that was what this discussion is about. He invited the Commissioners to come see the Goodwill operation to experience the attitudes of the people who work there. He also commented on the job opportunities they are providing in sorting clothing, hanging clothing, working the register, and working on the sales floor for people with disabilities that are paying local taxes.

DENNIS asked about the economic impact Goodwill Industries has in Wichita and Sedgwick County.

COMPTON said Goodwill paid approximately \$8,000,000 in wages, as of the last audit.

CHADICK commented they are just one industry; that there are other thrift stores in the community that were doing similar business.

DENNIS asked if any material Goodwill receives goes into the waste stream.

CHADICK said the only thing that comes to mind is that a small percentage of clothing doesn't make it as rag material.

DENNIS asked but wouldn't that be true with any recycling organization.

CHADICK said he can't speak to other organizations.

DENNIS asked if Mr. Chadick knew how many more brick and motor stores were doing this kind of business besides Goodwill Industries in Wichita.

COMPTON said there are a lot of church groups including Economy Corner, His Helping Hand, Salvation Army, DAV and several other smaller non-profits like Habitat for Humanity that sponsor stores.

HILLMAN asked how many people Goodwill Industries employees in all their stores.

CHADICK said a little less than 400 people.

MITCHELL asked if there were any materials brought to Goodwill locations that they do not accept.

CHADICK said major appliances and tires. He said they do accept clothing belts, purses, etc. He said occasionally because of odor or dampness some items are just not usable.

SHERMAN asked how many drop boxes Goodwill Industries had in the Wichita area.

CHADICK said zero for the same reasons seen on the pictures – trash piled around the boxes. He said they quickly learned that was not a good way of doing business. He said they have a transportation department which includes trailers, trucks, tractors, etc.

JOHN TODD, 1559 PAYNE, WICHITA said the applicant's proposal is a choice for the consumer and he thinks competition is good for business because the consumer wins. He said he does not believe governments should regulate choices or competition and asked the Commission to favorably consider the applicant's code change request.

KAPLAN said don't make the assumption that the one million pounds plus clothing that American Recyclers picked up last year would end up at a Goodwill store if American Recyclers didn't collect it. He said the whole essence of the curbside recycling boxes is convenience and people use them because they are located on a neighborhood corner. He said that way people don't have to drive to Goodwill, AMVETS, DAV or whatever. He said you can't assume the need is met. He said he disagreed with Mr. Chadick because Mr. Chadick is saying if American Recyclers did not pick up the one million pounds then Goodwill would have the million pounds. He said secondly, competition is not an element in making a determination on the Code change and is not a relevant factor that the Commission should even consider. He said there is nothing wrong with competition and free enterprise in the United States of America and whether someone is competing with another industry is not a basis to make a decision. He said American Recyclers supports about 75 different ministries which were listed in the handout booklet. He said they work with Goodwill but not in Wichita. He said they tried to have a meeting with Goodwill but were not accommodated. He said they do keep up with trash and other items at the boxes and they are there every day at every collection station. He said they pick up stuff that otherwise the city or county would be responsible to dispose of.

CHAIRMAN VAN FLEET asked Mr. Kaplan to state succinctly the exact proposal he would like the body to consider.

KAPLAN said he wants an opportunity for the Planning Commission to look at a final draft of a proposal to amend the ordinance, coordinated between him, Planning staff and the Law Department. He said once everyone has had input and the Commission has the final article in front of them, then make a decision and say yes you can support this and recommend it to the Council or no you do not support this and cannot recommend it to the Council. He said he believes he is entitled to that. He said all that is before the Commission now is their proposed amendments and he has not had any feedback from Planning staff because they haven't been authorized to do that. He said if it takes another month, so be it.

SHERMAN asked how many storefront locations American Recyclers had in Wichita.

DIRECTOR SCHLEGEL clarified that American Recyclers had approximately 75 bins, but no storefront (brick and motor) locations.

KAPLAN said all collection sites were boxes.

FOSTER asked staff to describe in more detail the Overland Park screening requirements for their collection facilities and how they handle collection boxes.

MILLER explained that Overland Park allows curbside recycling in residential districts; however, their supplementary use regulations say only at institutional or civic locations such as churches or schools. He said an additional requirement is a site plan which must be approved by the Planning Commission. He said the Planning Commission looks at the impact of the proposed activity on adjacent properties, visual appearance of the area and traffic circulation. He said there were also bin placements standards including that the bins not be in setbacks or take up required parking spaces.

FOSTER asked if staff felt comfortable projecting how this might play out and be applied in Wichita. Was it feasible?

MILLER said it would be different for the Commission in the sense that currently the only site plans they review are associated with Conditional Uses, CUP's and PUD's. He said if the Commission initiated an Overland Park type program they would be reviewing a site plan for whatever standards the Commission feels is appropriate, like deciding where the bin is placed and making a recommendation to approve or disapprove the location.

HILLMAN observed that the areas the bins were allowed in Overland Park were community locations like schools, churches or community buildings which meant children would be present in area.

FARNEY asked if the Office of Central Inspection (OCI) had an opinion on the issue.

MILLER said he didn't want to speak for them, but he assumes OCI will enforce whatever Code gets adopted.

FARNEY wondered if OCI had enough manpower.

J. JOHNSON asked what OCI was doing at the present time for enforcement.

JOHN COX, INTERIM COMMERCIAL ZONING, SIGN AND LICENSING INSPECTOR SUPERVISOR, OFFICE OF CENTRAL INSPECTION.

J. JOHNSON asked what is code enforcement doing about the red bins.

COX said he could not speak specifically about this case because it was an active case which may end up in court for resolution. He said he can only answer general questions about OCI processes.

SHERMAN clarified that this was an actual active zoning case.

COX clarified that this was an "active" case because American Recyclers has been issued notice that they are in violation.

SHERMAN asked what the violation was.

COX said that the collection boxes are illegal.

HILLMAN asked how many OCI staff was there to keep track of the red bins.

COX responded three inspectors, including himself.

MITCHELL asked are the collection boxes illegal or is the acceptance of clothing for recycling illegal?

COX said the acceptance of clothing and shoes.

SHERMAN asked would it be reasonable that any modification of the Code could increase the number of boxes or proposals for boxes within the City. He said he was concerned about a yellow box, blue box, etc.

MILLER said at a previous meeting someone provided a snapshot of a series of collection bins in another city. He said it would be safe to assume that in order to be competitive, the existing stores operating only out of storefronts now would ultimately have to make a decision if not having boxes was

cutting into their volume of business. He said the boxes may end up being more trouble than they are worth.

MOTION: To leave the Unified Zoning Code as currently written.

DOWNING moved, **SHERMAN** seconded the motion, and it carried (9-1).
MITCHELL – No.

SUBSTITUTE MOTION: To accept Mr. Kaplan's offer to work with staff and prepare an ordinance to bring back to the Commission for review.

MITCHELL moved. The substitute motion died due to lack of a second.

DIRECTOR SCHLEGEL clarified that was Mr. Kaplan's succinct proposal.

MITCHELL said yes, and Mr. Kaplan's agreement to include provisions of the Overland Park ordinance.

BOB PARNACOTT, ASSISTANT COUNTY COUNSELOR clarified that **MITCHELL** was directing staff to initiate an amendment to the Zoning Code because amendments to the Code can only be initiated by the governing body or the Planning Commission. He said individual applicants don't have the authority to apply for or request amendments to the Zoning Code; it must be at the direction of the Planning Commission.

MITCHELL said that was correct.

11. OTHER MATTERS

CHAIRMAN VAN FLEET provided a brief update on WAMPO activities.

The Metropolitan Area Planning Department informally adjourned at 3:07 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2009.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)